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Trustee
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8 UNITED STATES BANKRUPTCY COURT
9 DISTRICT OF OREGON
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11 In re

12 BRANDON MICHAEL STALWICK
13 MICHELLE COLLEEN STALWICK,

14 Debtors.
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Case No. 15-31954-rld7

TRUSTEE'S REPLY TO CREDITOR'S
OBJECTION
(Unitus Community Credit Union)

Hearing Date: August 20, 2015
Hearing Time: 10:00 a.m.

16 Stephen P. Arnot ("Trustee") files this response to Creditor's Objection to Notice of
17 Intent to Sell Property at Private Sale (Docket No. 27) as follows:

18 1. The Trustee Is Complying With His Statutory Duties.

19 The Trustee has a statutory duty to collect and reduce to money the property of the estate
20 for which the Trustee serves pursuant to Section 704(a)(1) of the Bankruptcy Code. The Trustee,
21 in the exercise of his duties, located a purchaser, Turning Leaf Homes, LLC ("TLH") who was
22 willing to pay \$5,000 for the estate's right, title and interest to the real property located at 15128
23 SE Belmore Street, Portland, Oregon and take the property subject to all liens and encumbrances,
24 including Unitus Community Credit Union ("Unitus"). The Trustee is complying with his
25 statutory duty.

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1 2. The Proposed Sale Is Within The Trustee's Sound Business Judgment.

2 The issue before the Court is whether the sale at \$5,000, subject to all liens and
3 encumbrances, should be approved under Section 363(b) of the Bankruptcy Code. The test of
4 whether the sale should be approved is whether it is supported by the sound business reason and
5 is based on a sound business exercise of business judgment by the Trustee. *In re Lahijani*, 325
6 B.R. 282, 288-89 (9th Cir. B.A.P. 2005); *In re Fitzgerald*, 428 B.R. 872 (9th Cir. B.A.P. 2010).

7 In the case at hand, the Trustee has exercised good business judgment. First, the Trustee
8 is not selling the property free and clear of liens, but subject to the existing liens. Unitus is not
9 being prejudiced and retains its Trust Deed against the property. The liquidation of the property
10 generates \$5,000 to the benefit of the creditors of this estate. Second, the Trustee is performing
11 his statutory duties to liquidate estate property and close the case as expeditiously as possible.
12 Third, by conducting a sale in this fashion, in lieu of a short sale, the Trustee's commission
13 administrative fees are substantially lower, which will ultimately benefit the creditors.

14 The court has approved a number of sales of real property similar to the current
15 transaction. The Trustee has liquidated the bankruptcy estate's right title and interest in a number
16 of properties over the last few years subject to existing liens and encumbrances. All sales have
17 been approved by the court as an exercise of the trustee's good business judgment. In fact, on
18 one occasion, the trustee sold to Wells Fargo residential property to its receiver, subject to
19 existing liens and encumbrances.

20 Based on the forgoing,, the Trustee has exercised his business judgment in reaching an
21 agreement with the purchaser to acquire the Debtors' interest subject to all liens and
22 encumbrances.

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WHEREFORE, the Trustee respectfully requests that the creditor's objection be overruled and the Court enter an order approving the sale.

DATED this 18th day of August, 2015.

/s/ Stephen P. Arnot

Stephen P. Arnot

Chapter 7 Trustee

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3 **CERTIFICATE OF SERVICE**

4 I hereby certify that on August 18, 2015 I served the foregoing **TRUSTEE'S**
5 **RESPONSE TO CREDITOR'S OBJECTION** via electronic notification, e-mail, facsimile or
6 by depositing a true copy thereof, contained in a sealed envelope, with first-class postage prepaid,
7 addressed to said parties at the last known address shown below and in the U.S. mail at Portland,
8 Oregon:

9 **Electronic Mail Notice List**

10 The following is the list of **parties** who are currently on the list to receive e-mail notice/service
11 for this case.

- 12 • JENNIFER L ASPAAS ecfor@rcflegal.com, RCO@ecf.inforuptcy.com
- 13 • Stephen P Arnot arnotlaw@sbcglobal.net,
14 sparnot@ecf.epiqsystems.com;morris cyn1963@gmail.com
- 15 • JAMES J NICITA jnicita@mccarthyholthus.com
- 16 • CASEY C PENCE bknotice@mccarthyholthus.com
- 17 • Recovery Management Systems Corporation claims@recoverycorp.com
- 18 • US Trustee, Portland USTPRegion18.PL.ECF@usdoj.gov
- 19 • ADAM M WEINER adam@bankruptcylawportland.com

20 **Manual Notice List**

21 The following is the list of **parties** who are **not** on the list to receive e-mail notice/service for this
22 case (who therefore require manual noticing/service).

23 ENT Federal Credit Union
24 7250 Campus Dr
25 Colorado Springs, CO 80920

26 Dated this 18th day of August 2015.

By: /s/ Stephen P. Arnot
Stephen P. Arnot, Trustee